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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,126	08/31/2001	Jeffrey D. Carnevali	NPI-009	3003
7590	01/20/2004			
Charles J. Rupnick PO Box 46752 Seattle, WA 98146				
			EXAMINER BREVARD, MAERENA W	
			ART UNIT 3727	PAPER NUMBER 9
DATE MAILED: 01/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/945,126

Applicant(s)

CARNEVALI, JEFFREY D.

Examiner

Maerena W. Brevard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13-20 is/are rejected.
- 7) ☒ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Veras.

In accordance with MPEP 2111 and 2112, Veras discloses a bracket capable of holding an elongated portion of a tool, comprising:

- A holder (10);
- A mounting base (7) joined for relative rotation to the holder having a mechanism (20, 21) for attaching to an external structure;
- A resilient biasing member, torsional coil spring (15);
- The holder includes a forked portion rotatably coupled to the mounting base having a pair of interconnected tines projecting from a neck portion (Figure 2);
- The forked portion is further structured (18) to retain an elongated portion of a tool;
- The mounting base is structured to attach to any relatively stationary fixed or movable structure (Page 1, lines 96-101);

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- The mounting base is structured having a flexible clamp portion (20, 21) with a substantially rounded aperture formed therein and a clamping mechanism (28); and
- The mounting base includes an internal cavity formed opposite from the mechanism for attaching to an external structure and having structure (11, 16) for engaging a first portion of the resilient biasing member, to the same degree claimed.

3. Claims 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Koday.

In accordance with MPEP 2111 and 2112, Koday discloses a bracket capable of holding an elongated portion of a tool, comprising:

- A holder (1) having a foot portion (7) with a forked portion (2, 3, 14) extending therefrom (Figures 1 and 2);
- A mounting base having a shoe portion (11) rotatably interconnected with the foot portion of the tool holder and means for attaching to an external structure; and
- A torsional coil spring (9) positioned between the foot portion and shoe portion, the spring being coupled to each the foot portion and the shoe portion (Column 2, lines 47-48).

#### ***Response to Arguments***

4. Applicant's arguments with respect to claim 1-18 have been considered but are moot in view of the new grounds of rejection.

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*Allowable Subject Matter*

5. Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

6. **This action is non-final.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maerena W. Brevard whose telephone number is 703/305-0037. The examiner can normally be reached on M-Th; 8:00 AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703/308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703/872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-0037.

*MB*  
Maerena Brevard  
January 12, 2004

*G. Vidovich*  
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